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REMARKS

Examiner interview summary

Applicant's representative, Michael Dryja, conducted an interview with the Examiner in this matter on Monday, April 18, 2005. The discussion focused on amending the claims so that they are limited to private memory "that is firmware," to render the claims allowable over the prior art, particularly EFI Application Toolkit in view of Goodman (2002/0091807), and further in view of Noel (2002/0010844).

In the previous office action response, Applicant had indicated that EFI Application Toolkit in view of Goodman and further in view of Noel requires rebooting after changes have been made to private memory, whereas the claimed invention is specific to no such rebooting. The Examiner in his advisory action noted, however, that EFI Application Toolkit in view of Goodman and further in view of Noel requires rebooting after changes have been made to private memory only where the private memory in question is firmware, but that the claims are not necessarily limited to firmware private memory. Therefore, Mr. Dryja proposed to the Examiner in the interview that limiting the claims to private memory that is firmware overcomes EFI Application Toolkit in view of Goodman and furthering view of Noel.

The Examiner indicated that this amendment would probably render the claims allowable, but requested that Applicant submit a supplemental final office action response.

Claim rejections under 35 USC 103(a)

Claims 1-20 have been rejected under 35 USC 103(a) as being unpatentable over EFI Application Toolkit Protocol Specification (hereinafter, "EFI"), in view of Goodman (2002/0091807), and further in view of Noel (2002/0010844). As has been noted, Applicant has amended claims 1-20 to be limited to private memory that is firmware, and that does not require

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rebooting after changes have been made to firmware, whereas EFI in view of Goodman and further in view of Noel requires rebooting after changes have been made to firmware.

Applicant notes that in this sense, EFI in view of Goodman and further in view of Noel is typical of the prior art. Generally, a prior art process that makes a change to firmware requires the computer to be rebooted so that the computer can operate using the changes that have been made to the firmware. Firmware includes the type of private memory that a computer uses to initially boot up, and then the firmware passes control to an operating system. Firmware in the context of Intel®-type processors is typically known as basic input/output system (BIOS); however, with respect to other processors, the utilized term is more generally firmware.

The problem faced by the inventors in the present patent application was that changes had to be made to a large number of computers. These changes included changes to firmware. However, if the prior art processes to update the firmware are used, then a problem occurs: as soon as the firmware is updated, rebooting is required (as in EFI in view of Goodman and further in view of Noel). This can be very disadvantageous, though – the computers in question may be “mission-critical” servers that cannot simply be rebooted at any time, since doing so would disrupt the services they provide (think of stock market computers, banking system computers, national security computers, and so on). Therefore, without the invention, changes could be made to a large number of computers – except for changes to their firmware. This was a problem.

Thus, the inventors came up with a process by which firmware can be updated (changed) without requiring rebooting. For instance, the specific embodiment outlined on page 10 of the patent application as filed is a process that the inventors invented that allows for firmware to be updated without requiring rebooting. The problem solved is thus that a lot of changes can be processed to a large number of computers at a desired, scheduled time, including changes to firmware, and the computers do not have to be rebooted at that time.

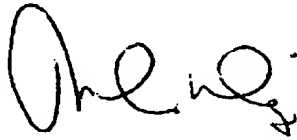
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Conclusion

Applicants have made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney so that such issues may be resolved as expeditiously as possible. For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



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Date

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